

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 30, 2003. At the time of the Final Office Action, Claims 1-12, and 17-22 were pending in this Patent Application. The Examiner rejected all pending claims. Applicant respectfully requests reconsideration and favorable action in this case in view of the following remarks.

Section 103 Rejections

Claims 1-5, 7-12, and 20-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,173,284 B1 issued to Brown ("*Brown*") in view of U.S. Patent No. 5,912,947 issued to Langsenkamp, et al. ("*Langsenkamp*") and in further view of U.S. Patent Application Publication No. US 2002/0019941 A1 issued to Chan et al. ("*Chan*"). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Brown* in view *Langsenkamp* and *Chan* and in further view of U.S. Patent No. 5,893,091 issued to Hunt et al. ("*Hunt*"). Claims 17-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Brown* in view *Langsenkamp* and *Chan* and in further view of U.S. Patent No. 5,510,978 issued to Colgan ("*Colgan*"). Applicant traverses these rejections for reasons stated below.

All Pending Claims are Non-obvious

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior reference (or references when combined) must teach or suggest all the claim limitations." (MPEP § 2143). First, Applicant respectfully submits that there is no suggestion or motivation in either of the references or in the knowledge generally available to one of ordinary skill in the art to combine the reference teachings. Second, Applicant respectfully submits that the prior art references when combined do not teach or suggest all the claim limitations.

No Motivation to Combine

"Teachings of references can be combined *only* if there is some suggestion or incentive to do so." (*ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577 (Fed.

Cir. 1984)). "[A]nalysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness." (*In re Sang-Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002)). "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability – the essence of hindsight." (*In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)). "[C]ase law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is a rigorous application of the requirement for showing of the teaching or motivation to combine prior art references." *Id.* "It is improper . . . simply to '[use] that which the inventor taught against its teacher'." (*Sang-Su Lee*, 277 F.3d at 1344 (quoting *W.L. Gore v. Garlock Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983))). "The factual inquiry whether to combine references must be thorough and searching." (*Sang-Su Lee*, 277 F.3d at 1343). "[An] examiners conclusory statements . . . do not adequately address the issue of motivation to combine." *Id.* Conclusory statements cannot be relied upon "when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies." *Id.*

Applicant respectfully submits that the Examiner has not provided the required evidence of a suggestion, teaching, or motivation to combine *Brown*, *Langsenkamp*, and *Chan*. First, the Examiners states, "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the type dependent access as taught by Langsenkamp, into the emergency notification system of Brown for the purpose of efficiently controlling access and message distribution." (Office Action at 3). This statement by the Examiner is merely a conclusory statement that proffers some perceived advantage of the proposed combination. There is no adequate rationale as to why one of ordinary skill in the art would make the proposed combination. As stated by the Federal Circuit in *Sang-Su Lee*, there are "dozens of rulings of the Federal Circuit [mandating] that determination of patentability must be based on evidence." (*Sang-Su Lee*, 277 F.3d at 1345). The Examiner has not based his statements on evidence, but has merely provided a conclusory statement. In fact, one of ordinary skill in the art would not be motivated to combine *Brown* and *Langsenkamp* because *Brown* is directed toward an automated system for monitoring police records for matches to predefined profiles and notifying a police officer when a match occurs via email or page, while *Langsenkamp* is directed toward an automated

phone calling system that notifies various public entities such as hospitals, schools, etc. via phone calls when a particular event occurs such as a public catastrophe, a dangerous weather situation, or even a criminal event. There is no comparing and matching of police records disclosed in *Langsenkamp*. Therefore, the evidence shows that there would be no motivation to one having ordinary skill in the art to combine *Brown* and *Langsenkamp*.

Examiner also states, "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the access control of Chan into the system of Brown-Langsenkamp in order to enhance data access features." (Office Action at 3). First, this statement by the Examiner again is merely a conclusory statement that proffers some perceived advantage of the proposed combination. There is no adequate rationale as to why one of ordinary skill in the art would make the proposed combination. Second, as described in more detail below, *Chan* is not directed to data access enhancement. *Chan* merely teaches restricting and allowing processes access to objects by the use of access tokens created when a user logs on to a computer in a network. Therefore, there is no motivation to one having ordinary skill in the art to combine *Brown* and *Langsenkamp* with *Chan*.

Accordingly, Applicant respectfully submits that the Examiner has not provided the required evidence of a motivation to combine *Brown*, *Langsenkamp*, and *Chan*. Accordingly, all pending claims are allowable.

Proposed Combination of References Do Not Teach All the Claim Limitations

In Applicant's previous response dated June 25, 2003, Applicant argued that neither *Brown* nor *Langsenkamp*, alone or in combination, discloses or suggests "determining whether a subscriber associated with the subscriber profile has access to the matched public safety event based on a type associated with the subscriber profile, the type indicating whether a particular portion of information concerning the matched public safety event is be transmitted to the subscriber in response to receiving a request to access the information from the subscriber," as recited by Claim 1. The Examiner agreed with Applicant and now asserts that *Chan* teaches this limitation by stating, "[i]n the same field of endeavor, Chan teaches restricting and allowing access to portions of information based on an access control list (ACL) and user privilege information." (Office Action, at 4). However, *Chan* merely

teaches restricting and allowing processes access to objects, (*Chan*, paragraphs 0033-0040), not restricting and allowing subscribers access to portions of data regarding a matched public safety event. *Chan* teaches the use of access tokens that are created when a user logs on to a network. These access tokens are compared to access control lists by a security mechanism to determine whether certain processes are allowed handles¹ to respective objects (or resources). (*Chan*, paragraph 0036). Not only does Applicant's invention not utilize access control lists, but it also allows access to a subscriber to a particular portion of information concerning a matched public safety event in response to receiving a request to access the information from the subscriber via a type associated with a subscriber profile that does not come from the user but is merely stored in the clearing house along with the information desired (see FIG. 1 of Applicant's disclosure).

Therefore, neither *Brown*, *Langsenkamp*, nor *Chan*, alone or in combination, discloses, teaches or suggests "determining whether a subscriber associated with the subscriber profile has access to the matched public safety event based on a type associated with the subscriber profile, the type indicating whether a particular portion of information concerning the matched public safety event is to be transmitted to the subscriber in response to receiving a request to access the information from the subscriber," as recited by Claim 1. For at least this additional reason, Claim 1 is allowable.

Independent Claims 17 and 20 are also allowable for reasons analogous to those above in conjunction with Claim 1, and Applicant respectfully requests that the rejection of these Claims be withdrawn.

Claims 2-12 depend from independent Claim 1, Claims 18-19 depend from independent Claim 17, and Claims 21-22 depend from independent Claim 20. These dependent claims are also not obvious in view of the cited references because they include the limitations of their respective base claim as well as additional limitations that further distinguish the cited references. Therefore, Applicant respectfully requests that the rejection of Claims 2-12, 18-19 and 21-22 be withdrawn.

¹ A handle is a token that allows a program (process) access to some resource (object).

Applicant respectfully submits that the Examiner has not shown that the prior art references, alone or in combination, teach or suggest all the claim limitations. Accordingly, all pending claims are allowable for this additional reason.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

No fee is believed due. However, if a fee is due, the Commissioner is hereby authorized to charge any required fee to Deposit Account No. 02-0384 of Baker Botts LLP.

Respectfully submitted,

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